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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE EASTERN DISTRICT OF CALIFORNIA
12

13 **CHINO VALLEY UNIFIED SCHOOL**
14 **DISTRICT, a local educational agency;**
15 **OSCAR AVILA, an individual; MONICA**
16 **BOTTS, an individual; JASON CRAIG, an**
17 **individual; KRISTI HAYS, an individual;**
18 **COLE MANN, an individual; VICTOR**
19 **ROMERO, an individual; GHEORGHE**
20 **ROSCA, JR., an individual; and LESLIE**
21 **SAWYER, an individual,**

22 Plaintiffs,

23 v.

24 **GAVIN NEWSOM, in his official capacity**
25 **as Governor of the State of California;**
26 **ROBERT BONTA, in his official capacity as**
27 **Attorney General of the State of California;**
28 **and TONY THURMOND, in his official**
capacity as California State Superintendent
of Public Instruction,

Defendants.

2:24-cv-01941- DJC-JDP

**DEFENDANTS' SUPPLEMENTAL LIST
OF AUTHORITIES**

Judge: The Honorable Daniel Calabretta

Action Filed: July 16, 2024

Defendants submit the following list of authorities addressing standing to bring First Amendment Free Exercise claims:

Am. Legion v. Am. Humanist Ass’n, 588 U.S. 29, 82 (2019) (Gorsuch, J., concurring) (characterizing Supreme Court’s standing doctrine under the Free Exercise Clause as having “bite,” because a plaintiff generally must “show that his good-faith religious beliefs are hampered before he acquires standing to attack a statute under the Free-Exercise Clause.”)

Braunfeld v. Brown, 366 U.S. 599, 615 (1961) (Brennan, J., concurring and dissenting)) (plaintiff must “show that his good-faith religious beliefs are hampered before he acquires standing to attack a statute under the Free-Exercise Clause of the First Amendment.”)

Foothills Christian Church v. Johnson, 2023 WL 4042580, at *14-15 (S.D. Cal. June 15, 2023) (granting motion to dismiss First Amendment Free Exercise claim for lack of standing, even applying less “rigid” standing requirements to First Amendment Free Speech and Free Exercise claims under *Tingley v. Ferguson*, 47 F.4th 1055, 1066-67 (9th Cir. 2022), because the plaintiff still must show “there exists some conflict between one of its religious convictions and challenged governmental action,” and “‘indignation is not an injury that confers standing to sue’ under the Free Exercise Clause,” citing *Am. C.L. Union of Ill. V. City of St. Charles*, 794 F.2d 265, 274 (7th Cir. 1986).)

Foothills Christian Church v. Johnson, 2024 WL 2306282, at *4, 10-12 (S.D. Cal. May 20, 2024) (in granting motion to dismiss First Amendment Free Speech and Free Exercise claims in amended complaint for lack of standing, district court again stated that although modern Supreme Court jurisprudence “has dispensed with rigid standing requirements” for First Amendment claims, “to acquire standing to pursue a Free Exercise claim, a plaintiff still must, at a minimum, show there exists some conflict between one of its religious convictions and a challenged governmental action,” and a free exercise plaintiff generally must “show that his good-faith religious beliefs are hampered before he acquires standing to attack a statute under the Free-Exercise Clause.”)

Harris v. McRae, 448 U.S. 297, 320-321 (1980) (the three categories of plaintiffs all lacked standing for their Free Exercise claims challenging the Hyde Amendment: (1) none of the

1 indigent pregnant women who sued on behalf of other women alleged that she sought an abortion
 2 under compulsion of religious belief; (2) the two officers of the Women's Division failed to
 3 allege either that they are or expect to be pregnant or that they are eligible to receive Medicaid,
 4 and “therefore, lack the personal stake in the controversy needed to confer standing to raise such a
 5 challenge to the Hyde Amendment;” and (3) the Women's Division itself lacked standing because
 6 individual participation “is necessary in a free exercise case for one to show the coercive effect of
 7 the enactment as it operates against him in the practice of his religion.”)

8 *McGowan v. Maryland*, 366 U.S. 420, 429 (1961) (appellants had no standing to raise a free
 9 exercise claim where they “allege only economic injury to themselves; they do not allege any
 10 infringement of their own religious freedoms.”)

11 *Sch. Dist. of Abington Twp., Pa. v. Schempp*, 374 U.S. 203, 224 n.9 (1963) (holding the
 12 requirements for standing to challenge state action under the Free Exercise Clause “include proof
 13 that particular religious freedoms are infringed.”)

14 *Tingley v. Ferguson*, 47 F.4th 1055, 1066-67 (9th Cir. 2022) (stating more relaxed pleading
 15 standards applied to plaintiff’s First Amendment Free Speech and Free Exercise claims, based on
 16 less “rigid” standing analyses applied by Ninth Circuit in cases involving First Amendment Free
 17 Speech claims (specifically, *Lopez v. Candaele*, 630 F.3d 775, 781, 785-794 (9th Cir. 2010),
 18 *California Pro-Life Council, Inc. v. Getman*, 328 F.3d 1088, 1094-95 (9th Cir. 2003), and
 19 *Libertarian Party of L.A. Cnty. v. Bowen*, 709 F.3d 867, 870 (9th Cir. 2013)), while still applying
 20 pleading standard that plaintiff must show that threatened future injury is either “certainly
 21 impending” or that there is a “substantial risk” of the harm occurring to have standing.)

22 Dated: January 2, 2025

Respectfully submitted,
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 DARRELL W. SPENCE
 Supervising Deputy Attorney General

25
 26 /s/ Jennifer A. Bunshoft
 JENNIFER A. BUNSHOFT
 Deputy Attorney General
 Attorneys for Defendants Governor Gavin
 Newsom and Attorney General Rob Bonta

CERTIFICATE OF SERVICE

Case Name: **Chino Valley Unified School
District, et al. v. Gavin
Newsom, et al.**

No. **2:24-cv-01941-DJC-JDP**

I hereby certify that on **January 2, 2025**, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

DEFENDANTS' SUPPLEMENTAL LIST OF LIST OF AUTHORITIES

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on **January 2, 2025**, at Los Angeles, California.

J. Sissov

Declarant

/s/ J. Sissov

Signature